

YUGOSLAVIA

@Ethnic Albanians - Trial by truncheon

Amnesty International has long been concerned about police abuses against ethnic Albanians in the predominantly Albanian-populated province of Kosovo in the Republic of Serbia. In June 1992 the organization issued a report, *Yugoslavia: Ethnic Albanians - victims of torture and ill-treatment by police in Kosovo province* (AI Index: EUR 48/18/92), which documented police abuses with 15 illustrative cases.

Nearly two years later, confrontation between the majority ethnic Albanian population and the Serbian authorities, whom most ethnic Albanians refuse to recognize, continues. Local human rights activists continue to report daily occurrences of beatings by officers of the largely Serbian police force. Victims of ill-treatment or torture are commonly political activists, former political prisoners, school and university staff or members of their extended families. Entire families have been ill-treated or harassed on the pretext of arms searches. There are also frequent reports of apparently random ill-treatment by police.

In July 1993 the Conference on Security and Co-operation in Europe (CSCE) was forced by the government of the Federal Republic of Yugoslavia (FRY) to close down its mission of long duration in Kosovo (and also in the Sandak and Vojvodina); subsequently the United Nations (UN) Special Rapporteur on the former Yugoslavia was refused permission to base staff long-term in the FRY. Since then there has been no permanent monitoring mission in Kosovo. In September 1993 Amnesty International issued an appeal to member states of the UN, CSCE, Organization of Islamic Conference (OIC) and European Community (EC) for action to ensure long-term human rights monitoring by the CSCE and UN in Kosovo and other parts of the FRY. In October 1993 an Amnesty International delegation was refused visas to the FRY, but the following month an Amnesty International delegate observed a trial in Kosovo. There have also been visits to Kosovo by several other international human rights organizations and foreign delegations to monitor human rights abuses.

Amnesty International considers that the human rights situation in Kosovo, already extremely serious in July 1993, has further deteriorated. The level of police violence appears to be on the increase and it is also frequently being used, the organization believes, to obtain convictions, resulting in prison sentences, in court.

After 1990 there were relatively few political trials resulting in long prison sentences in Kosovo. However, in October 1993, the first in a new series of political trials of ethnic Albanians took place and, as in the past, there have again been reports that political prisoners have been beaten by police to force them to make confessions which are used to convict them in court. Official attitudes appear to condone or to be indifferent to this practice.

In this report Amnesty International focuses on its concerns with regard to the deliberate use of violence by police with the purpose of obtaining self-incriminating confessions from ethnic Albanian detainees charged with political offences.

ARRESTS AND TRIALS SINCE JULY 1993

Between July and September 1993 over 90 ethnic Albanians from Kosovo province were arrested on charges of making preparations for armed uprising. They were said to be aiming to achieve by force of arms the secession of Kosovo from the FRY and its independence or unification with neighbouring Albania. To Amnesty International's knowledge, none of those arrested has been charged with using violence.

In most cases the accused have been charged under Articles 136 ("association for the purpose of hostile activity") and 116 ("undermining [Yugoslavia's] territorial unity"), in connection with Article 138 of the Criminal Code of the Federal Republic of Yugoslavia which provides for sentences of from one to 10 years' imprisonment for preparing to carry out the above offences.

Many of the accused are political activists of Kosovo's largest ethnic Albanian opposition party, the Democratic League of Kosovo (LDK), which has consistently advocated peaceful methods of political action, or former political prisoners - including a number of former prisoners of conscience adopted by Amnesty International. They have generally been charged with being members of clandestine organizations seeking to change Kosovo's status by force, in particular the National Movement for Kosovo Republic (NMKR) and the National Movement for the Liberation of Kosovo. In some cases, they have been charged with possessing weapons or smuggling weapons into Kosovo and with making various plans to organize and train paramilitary units.

By 17 February 1994 at least six groups and two individuals (a total of 27 people) had been convicted and sentenced to up to five years' imprisonment. A trial against a further 18 started on 10 December 1993 in Priština, the capital of Kosovo province. In December 1993 and January 1994 it was postponed six times, as a result of requests filed by defence lawyers for the exclusion of the presiding judge, and for the withdrawal of statements made by the defendants during investigation proceedings. Other trials are underway.

AMNESTY INTERNATIONAL'S CONCERNS:

1. Torture and other ill-treatment

Amnesty International is deeply concerned about allegations that many of the accused were severely beaten and otherwise ill-treated by police and/or state security service (SDB) officers following arrest. In a number of cases lawyers noted severe bruising on their clients and filed requests that they be examined by forensic specialists. In addition, many of the defendants have alleged that false, self-incriminating statements were extorted from them by beating and threats following arrest and that they did not dare to change these statements when brought before an investigating judge for fear of renewed ill-treatment. Prison medical records, and examinations carried out by the Institute of Forensic Medicine of Priština University Medical Faculty, have in some cases confirmed injuries consistent with these allegations. However, it appears that requests for medical/forensic examination have sometimes been ignored or delayed until injuries had largely healed.

Amnesty International's concern about the use of torture or ill-treatment to obtain statements from defendants during investigation proceedings is all the greater because it is not uncommon for ethnic Albanians to be convicted entirely, or very largely, on the basis of statements made during investigation proceedings. Prosecutors and judges, who with few exceptions are Serbs and Montenegrins (ethnic Albanians have been dismissed from these posts after refusing to recognize Serbian authority in the province), commonly give credence to the statements made during investigation rather than those made at the trial, sometimes even in the face of evidence supporting allegations of torture or ill-treatment.

Article 191 of the Yugoslav Criminal Code punishes with up to three years' imprisonment officials who in the performance of their duties physically ill-treat, intimidate or insult another person. Article 65 of the Serbian Criminal Code provides for a sentence of up to five years' imprisonment if the ill-treatment is intended to extract a confession (or up to 15 years if the ill-treatment is very serious). In September 1991 Yugoslavia ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Amnesty International knows of no recent case in which police or SDB officers in Kosovo province have been prosecuted under these provisions. However, in December 1993 the District Court of Prizren sentenced two police officers, Momir Jašovi_ and Tihomir Krasovi_, to three years' imprisonment each under Article 53 of the Criminal Code of Serbia for causing physical injuries to an ethnic Albanian, Arif Krasniqi, which resulted in his death. (They had arrested Arif Krasniqi in August 1993 and taken him to a police station in Prizren where he died from the beatings they gave him.) Momir Jašovi_ and Tihomir Krasovi_ were both released pending appeal.

2. Unfair trial

Defence lawyers have repeatedly filed complaints about flagrant breaches of procedure which have undermined their clients' right to defence. In particular, they have complained that defendants have frequently been held by police for well beyond the statutory period of three days before being brought before an investigating judge. It is generally during this initial period that detainees experience the worst ill-treatment. There have also been complaints about illegal delays in issuing decisions to remand the defendant in custody and to open an investigation. Further delays in providing copies of these decisions to defendants and their lawyers have often made it difficult or impossible for them to challenge their detention and investigation. Further, while Yugoslav law allows the investigating judge to assign to the police certain parts of the investigation, there have been complaints that in effect the entire investigation has been carried out by the police - including the SDB - and sometimes without any written order having been issued by the investigating judge, whose role in the investigation has thus been almost purely formal.

Lawyers have also complained of difficulties in gaining access to their clients and of sometimes being denied the right to attend the questioning of their client by the investigating

judge (although this right has regularly been granted to the public prosecutor). In addition, lawyers have complained that in some cases they have been denied access to the court file on the case and to the material evidence.

3. Prisoners of conscience

Amnesty International does not always have full details of the charges against the accused and the evidence in support of them. However, on the basis of what the organization has so far been able to learn, it appears that at least some of those detained are prisoners of conscience - that is people imprisoned because of their peaceful political activity - and that charges of belonging to clandestine organizations seeking to change Kosovo's status by force were not convincingly substantiated in court.

CASE EXAMPLES - ARRESTED, TRIED AND CONVICTED

1. Behajdin HALLAQI, Ilijaz KADOLLI, Hysen GEGAJ, Binak BERISHA and Shefki MUÇAJ were arrested in early August 1993. Behajdin Hallaqi, Hysen Gegaj and Binak Berisha are members of the LDK, and Behajdin Hallaqi is president of a local sub-branch of the LDK. The five were charged under Articles 116 and 136 of the Yugoslav Criminal Code with joining the NMRK, which according to the indictment seeks the secession of Kosovo province through the creation of paramilitary units. They were accused of having attended one or more meetings of this organization.

On 11 November 1993 they were all found guilty and sentenced to between two and three-and-a-half years' imprisonment by the District Court of Prizren. Two delegates of the international human rights organization Helsinki Watch who had been observing the trial were detained by police after photographing the public leaving the courtroom.

Torture allegations

At the trial, the accused all denied they were members of the NMRK, and all claimed to have been ill-treated by SDB officers. Binak Berisha told the court that the indictment had no basis, it had been compiled from statements which had been extorted from him by the police by force and threats; he had been too frightened to change these when brought before the investigating judge. He claimed the police had told him they would give him a passport if he incriminated his co-defendants. Hysni Gegaj told the court that when he was brought before the investigating judge he had offered to remove his clothes to show the injuries he had suffered from police beating but that the investigating judge had refused him permission.

Prison records produced as evidence in court showed that Behajdin Hallaqi, Ilijaz Kadolli and Hysen Gegaj (who were arrested on 3 August) had been examined by a prison doctor on 6 August and all bore marks of bruising. According to the records, Binak Berisha

(arrested on 6 August) and Shefki Muçaj (arrested on 8 August), who were not examined until 17 August, were found to have no injuries.

The available information indicates that the defendants were convicted almost exclusively on the basis of statements made during investigation proceedings which they withdrew in court. The only material evidence produced in court in support of the charges consisted of a copy of the draft program and statute of the NMRK, two "rulebooks" from meetings and an invitation to an NMRK meeting which, according to the prosecution, were all found at Behajdin Hallaqi's home. Behajdin Hallaqi, who denied the charges against him both during investigation proceedings and at the trial, readily admitted throughout proceedings that he possessed the draft statute and program of the NMRK, which he said had been given to him while working abroad and which he had read out of interest. In court he denied that the two "rulebooks" and invitation were found in his house.

No witnesses were examined by the court, and when one of the defence lawyers proposed that all the statements of witnesses and possible suspects questioned during investigation proceedings be read in court, the prosecution opposed this proposal and the court rejected it.

The evidence of prison records, in Amnesty International's view, substantiates allegations by Behajdin Hallaqi, Ilijaz Kadolli, and Binak Berisha that they were beaten during interrogations by SDB officers. It leaves open the question as to whether the two other defendants were also beaten. Given these circumstances and in the absence of other supporting evidence, Amnesty International considers that the statements made by the accused during investigation proceedings and withdrawn in court do not constitute a solid basis for conviction. The defendants were not charged with using violence; Amnesty International considers that the prosecution did not prove its case that the accused were members of an organization advocating and planning violence. It believes that they have been convicted and sentenced to imprisonment as a result of exercising non-violently their right to freedom of association and expression. These convictions violate Articles 19 and 22 of the International Covenant on Civil and Political Rights, which the FRY recognizes as legally binding. The organization therefore considers them to be prisoners of conscience.

2. Flamur PRIZRENI, a former reserve captain of the Yugoslav National Army, **Zenel KRASNIQI** and **Zeqë XHAFERI** were arrested at the end of September/beginning of October 1993 on charges of preparing to undermine, by force, Yugoslavia's territorial unity under Articles 116 and 138 of the Yugoslav Criminal Code. They were accused of having in the period from 1992 to 1993 organized the creation of local paramilitary units. They allegedly did this by compiling lists of local men of military age, selected from a register used by ethnic Albanians for informal elections in 1992.

An Amnesty International delegate observed their trial before the District Court of Prizren on 23 November 1993. At the trial the accused all denied the charges against them. They stated that they had decided to make the lists in May 1992, shortly after armed conflict had broken out in Bosnia-Herzegovina. They stressed that at that time they had been very alarmed and felt it necessary to make preparations for self-defence in case the conflict should

spread to Kosovo. However, several weeks later they had second thoughts and decided to abandon the plan; two of them got rid of their lists, while one of them left his forgotten in a drawer. The accused did not allege that they had been tortured or ill-treated following arrest.

There were no witnesses at the trial, and the only material evidence was the list found at Zenel Krasniqi's house. The court found them guilty and sentenced them to one year's imprisonment each, but released them pending appeal.

Amnesty International notes that the accused were not charged with having used violence. No weapons were found in their possession and there was no evidence that they had ever contacted any of the men on their lists with the purpose of setting up paramilitary units. Amnesty International notes that no evidence was produced in court which undermined their defence - that they prepared the lists with a view to self-defence should the need arise, and that they abandoned even this plan. The organization therefore considers that if, following appeal, they are imprisoned, they would be prisoners of conscience.

3. Ukë BYTYÇI, President of the Suva Reka branch of the LDK, was arrested on 7 October 1993 and on 19 October he was indicted under Articles 116 and 138 of the Yugoslav Criminal Code.

According to the indictment, in the period from 1992 to 1993, in his capacity as coordinator and commander of the municipal headquarters of the armed forces of "Kosovo Republic", he - with five others - prepared and undertook activities to achieve by force the secession of Kosovo and other territories of Yugoslavia inhabited by ethnic Albanians. He allegedly organized the creation of paramilitary units in a local municipality: together with other members of the local headquarters he supposedly formed 11 military units with about 2,400 men; appointed officers; organized rearguard units and a communications system between units and command headquarters for the municipality; compiled lists of military conscripts and gave "all this" to a member of the municipal military headquarters, who hid it with a relative.

Surprisingly, none of the persons who according to the indictment conspired with or aided Ukë Bytyçi was charged together with him, nor did the prosecution propose any witnesses. No material evidence was proposed, although the public prosecutor requested the confiscation of a computer, which according to the indictment, "was intended to be used for carrying out the offence".

The only evidence cited in the indictment is the statements made by Ukë Bytyçi during investigation proceedings. On 10 December 1993 Ukë Bytyçi was found guilty by the District Court of Prizren and sentenced to five years' imprisonment.

Torture allegations

According to a report in the *The Guardian* (London) of 18 December 1993: "Ukë Bytyçi, aged 38...confessed to paramilitary activities after two days of beatings. 'They didn't let me eat, drink or sleep', he said. 'I was tied to a radiator and handcuffed behind my back. Ten inspectors took turns to beat my feet, hands and legs. In the end I agreed to sign a statement

confirming what they wanted me to say. They said that if I didn't they'd take me to the Albanian border, shoot me and say that I'd tried to cross the border illegally."

Amnesty International has so far not learned of any evidence, apart from the statements he made during investigation proceedings, to support the charges brought against Ukë Bytyçi, and believes there is a strong *prima facie* case that he is a prisoner of conscience imprisoned as a result of his non-violent political activity.

4. Charges of being members of the NMRK were also brought against **Fisnik CUKAJ**, a former president of Priština University Independent Students Union (1991-1992) and **Sadri SHALA**, aged 64, and **Ymer SHALA** (father and son). They were arrested at the beginning of September 1993. **Ali LAJÇI**, a former political prisoner and deputy of the unofficial Kosovo Republic parliament was charged with failing to inform the authorities of a crime (he was released on 25 November 1993).

Torture allegations

According to press reports, at their trial before the District Court of Pe_ in January 1994 the accused alleged that they had been tortured by police following their arrest and their lawyers demanded that the statements they had given during investigation proceedings be withdrawn from the court file on the grounds that they had been given under duress. They asked for prison medical reports, which reportedly confirmed injuries consistent with their allegations of torture, to be read in court.

On 1 February all four defendants were found guilty and were sentenced to between eight months' and four years' imprisonment. Three were released pending appeal; Fisnik Cukaj, who received the heaviest sentence, remained in custody.

5. The previous day, the District Court of Pe_ had convicted four others, **Afrim MEHMETI and Ibrahim MEHMETI (brothers)**, **Gazmend MUHAXHERI** and **Muhamet LEKAJ**, on similar charges and sentenced them to prison terms of between three and five years' imprisonment. They also reportedly alleged that they had been ill-treated by police following arrest.

Amnesty International is seeking further details about the charges brought in these two trials and the evidence in support of the charges, in order to establish whether the accused are prisoners of conscience.

CASE EXAMPLES: ETHNIC ALBANIANS CURRENTLY ON TRIAL OR AWAITING TRIAL

1. Between 27 July and 9 August 1993 the following 17 men and two women were arrested: **Xhavit HAZIRI**, **Ismet MAHMUTI**, **Hajredin HYSENI**, **Faik AJETI**, **Raif QELA**

(ÇELA), Salih MUSTAFA, Salih SALIHU, Nehat SELIMI, Ramadan PLLANA, Islam MULAKU, Ajet BERISHA, Bajrush XHEMAJLI, Sanie ALIU (f), Ramize ABDULLAHU (f), Shemsi VESELI, Rexhep AVDIU, Skender HAJDARI, Hamit ZEQRIRI, Ahmet HAXHIU. At least 11 are former political prisoners, among them three adopted by Amnesty International as prisoners of conscience. Two of these, Bajrush Xhemajli and Sanie Aliu, are local human rights activists, members of the Council for the Defence of Human Rights and Freedoms. With the exception of Ahmet Haxhiu, they are currently on trial before the district court of Priština on charges that from 1989 to 1993, in Kosovo and abroad, they founded and were members of the NMRK, seeking the forcible secession of Kosovo and areas of Montenegro inhabited by Albanians and their independence or unification with Albania. They are charged with having held meetings in various parts of Kosovo and Macedonia. Several are alleged to have smuggled weapons into Kosovo where they distributed them and gave training in their use. During searches police reportedly found machine guns, sniper guns, grenades and ammunition. Four of the accused, Raif Qela, Salih Salihu, Salih Mustafa and Ramize Abdullahu, are alleged to have also founded another organization, the National Movement for the Liberation of Kosovo, with similar aims, whose written materials, according to the indictment, explicitly called for preparations for armed uprising.

Their trial, which began in December 1993, was postponed six times, after defence lawyers filed requests for the exclusion of the presiding judge and public prosecutor. They also demanded that statements their clients had made during investigation proceedings be withdrawn from the files, on the grounds that these statements had been extorted from them by physical force by police and SDB officers who had threatened them with further ill-treatment if they deviated from these statements when questioned by the investigating judge. The court rejected these requests. During trial proceedings many of the defendants and their lawyers repeated their allegations of torture and refused to present their defence on the grounds that the court refused to remove armed police officers from the courtroom.

Allegations of torture and of procedural violations undermining the defendants' right of defence.

Xhavit Haziri's lawyer, Metush Sadiku, first saw him on 7 August 1993, four days after his arrest, when he was questioned by an investigating judge. The same day Metush Sadiku filed a request that Xhavit Haziri be medically examined in order to establish the nature and cause of his injuries (bruises) and the date when they were inflicted.

In his submission, Metush Sadiku stated that during questioning by the investigating judge, Xhavit Haziri was asked to account for the differences between his statements and those made to police. In reply Xhavit Haziri said that some of the statements made to police had been extorted from him by continuous beatings by SDB officers. He insisted the investigating judge should see his bruises, and removed his clothes, revealing a large number of bruises on his back, arms, legs which differed in colour because, he claimed, they had been inflicted over several days - from 2 to 6 August 1993.

In a second submission filed on 18 August Metush Sadiku complained that Xhavit Haziri was not medically examined until 16 August, nine days after informing the investigating judge that he had been tortured. In the intervening period, he alleged, Xhavit Haziri had been further interrogated and ill-treated by police (on 7,8,9, 10 August) and on 16 August he had been tortured with an electric baton.

On 4 February 1994, during trial proceedings, Xhavit Haziri stated in court that SDB officers had threatened that if he made a statement to the investigating judge that differed from the one they had extorted from him by torture they would "liquidate" his wife and two children.

In submissions filed on 19 August 1993, the day he visited **Ismet Mahmuti and Faik Ajeti** in Priština prison, their lawyer, **Bajram Kelmendi**, requested that they also be medically examined to establish the nature and causes of their injuries: "On this occasion I learned from them, and subsequently saw with my own eyes, that the police had used physical violence against them in order to extort confessions. Visible injuries were inflicted on them to all parts of the body, particularly in the case of **Ismet Mahmuti**, who 16 days after his arrest still had visible marks of violence on his body and severe physical pains". According to **Bajram Kelmendi**, they had been tortured between 3 August (the date of their arrest) and 9 August when they were brought before an investigating judge. The latter had not seen fit to send them for medical examination. The day after this submission was filed, **Ismet Mahmuti** and **Faik Ajeti** were finally sent for medical examination. The findings are not known to Amnesty International.

Bajram Kelmendi also complained that his clients had been detained in police custody for six days before being brought before an investigating judge (twice as long as is legally allowed); that they were questioned by the investigating judge in the presence of the public prosecutor, although the public prosecutor had not yet (as required by law) filed a request to open investigation proceedings - and still, 16 days after their arrest, had not filed such a request. In addition **Bajram Kelmendi** had not been allowed to examine the court file, on the pretext that it had been sent to the Republic Public Prosecutor in Belgrade.

On 24 August the Deputy President of the District Court of Priština replied to **Bajram Kelmendi**: "*In response to your complaint of 20 August concerning the work of the investigating judge...you are informed as follows: As regards the conduct of police officers, this court is not able to influence their work. We have looked into your complaints concerning the conduct of the investigating judge and found that they are groundless*".

On 31 August 1993 **Bajram Kelmendi** filed a request for the exclusion of the investigating judge (because of the procedural violations he had committed) and of the President of the District Court (for his failure to remedy or prevent these).

Raif Qela was arrested on 4 August 1993. On 27 August his lawyer, **Haxhi Kelmendi**, visited him in prison and afterwards filed a complaint to the district public prosecutor that police and SDB officers had beaten his client, given him various injections and electric shocks and had threatened to liquidate him in the course of dozens of interrogation sessions, as a result of which he was in a very poor physical and mental condition.

According to press reports of the trial in January 1994, a certificate issued by the Institute of Forensic Medicine of the Medical Faculty of Priština, included in the court files, confirmed the injuries suffered by Raif Qela.

Salih Salihu was arrested on 27 July 1993. In October a recently released fellow prisoner reported that Salih Salihu, aged 33, was in very bad health in Priština prison, as a result of ill-treatment by police.

At the opening of the trial in December, he was reportedly too ill to walk into the courtroom by himself and had to be assisted by two police officers.

In January 1994, one of his lawyers reportedly stated that although a court order had been issued that his client be medically examined, this had not been carried out. On 7 February Salih Salihu told the court that following his arrest in October he had been repeatedly hit all over his body with an electric baton.

Ahmet Haxhiu, aged 61, was reportedly ill at the time of his arrest. According to a report in *The Guardian* (London) of 18 December 1993, "he was subjected to four days of repeated physical abuse after his arrest. He tried to commit suicide with wire he unwrapped from a broom. Other detainees saved his life". He was released from Belgrade Central Prison in October 1993 in a very poor state of health. Because of ill-health he is to be tried separately from the others.

2. Agim KRASNIQI, Ibush KELMENDI, Halit RAMA, Xhelil RAMA, Bilall SYLA and Fazli MALOKU were reportedly arrested on 16 and 17 September 1993. Two of them, Agim Krasniqi and Bilall Syla, are former officers of the Yugoslav National Army; at the time of his arrest, Agim Krasniqi was President of Branch III of the LDK in Priština. The six are reportedly charged under Articles 124 and 138 of the Yugoslav Criminal Code with preparing armed rebellion. Amnesty International does not have further details of the charges against them. On 15 December 1993 the Supreme Court of Serbia ordered their continued detention for a further three months, but at the end of January 1994 one of them, Fazli Maloku, was released pending trial. To Amnesty International's knowledge, his five co-defendants remain detained.

Allegations of torture and ill-treatment and of procedural violations

On 24 September 1993 lawyers for the accused filed a request for the exclusion of the investigating judge and the President of the District Court of Priština. In support of this request they stated that they had been informed that: "Physical and mental torture is used against [our clients], several are not able to stand or walk. All this is done to extort confessions and the investigating judge, instead of preventing these illegal activities, which are in themselves a criminal offence, takes part in them".

Three days later, since they still had not had any contact with their clients, they filed a request that they be medically examined.

On 4 October, lawyer Destan Rukiqi filed a further request that his client, **Billal Syla**, whom he had visited that day in prison, be sent for medical examination to the Institute for

Forensic Medicine in Priština. He also demanded that SDB officers stop interrogating and ill-treating his client. In this request he stated that Billal Sylja had been interrogated on 1, 2 and 4 October by SDB officers who had tortured him. He noted that injuries were visible on the soles of his client's feet, hands and mouth and that Billal Sylja complained that since his beating on 1 October he had lost hearing in his left ear.

Lawyers for the accused also cited a series of procedural violations, among them: that the investigating judge had questioned the accused on 21 September in the presence of the public prosecutor, although the public prosecutor had not yet filed a request to start investigation proceedings against them, while at the same time denying the accused the right to talk to their lawyers.

On 14 October, three lawyers filed a request for access to the court file and evidence.

On 24 November lawyers for all the accused filed a complaint that they still had not received a decision from the District Court in response to their appeal against a decision by the investigating judge, dated 19 November 1993, "temporarily" depriving them of the right to examine the file and evidence and to be present during various parts of the investigation proceedings.

3. Adem SALIHAIJ, Syleman HASANI, Ismail MEHMETI, Mehmet REXHEPI and Lutfi JUSUFI were arrested in September 1993; (a sixth man, **Ymri BALI**, escaped arrest and went into hiding). Adem Salihaj is president of the Uroševac branch of the LDK, and Lutfi Jusufi is president of a village sub-branch of the LDK. They are all charged under Articles 116 and 138 of the Yugoslav Criminal Code.

Allegations of torture and procedural violations

Adem Salihaj, who was arrested on 16 September, was questioned by an investigating judge on 26 September in the presence of his lawyers and on this occasion informed the investigating judge that he had been tortured by police. On the same day lawyer Bajram Kelmendi filed a request that he be sent for medical examination. On 14 October Bajram Kelmendi filed a complaint in which he stated that during a prison visit the previous day, Adem Salihaj had told him that he had again been interrogated and tortured by police on 5, 6, and 12 October.

On 12 October 1993 lawyer Rexhep Haxhimusa filed a complaint to the Supreme Court of Serbia in which he stated that his client **Sulejman Hasani** had also been tortured and injured by police. On 4 and 5 October he had tried to visit Hasani and Salihaj in prison but had been unable to do so because they had been taken to police for interrogation, although no court decision had been issued requesting police to undertake parts of the investigation proceedings. He further complained that his clients had so far been detained on the basis of a police decision (which allows for detention for up to three days); his clients Hasani and Salihaj had still not received a court decision to remand them in custody or to open investigation proceedings against them.

AMNESTY INTERNATIONAL'S RECOMMENDATIONS

Prevention of torture and ill-treatment

1. Because detainees in Kosovo province and elsewhere in the FRY are at greatest risk of torture or ill-treatment while in police custody, and in the light of the right of those detained to have full access to their lawyer, Amnesty International urges the government to take appropriate steps to ensure that in all circumstances detainees are brought before a court within three days, as laid down by law, and are thereafter kept in detention only under the supervision of a court.
2. The Yugoslav Government should fulfil its legally binding obligation under Articles 7,12 and 13 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to ensure that there is a prompt investigation by an independent and impartial authority wherever there is reasonable ground to believe that an act of torture or ill-treatment has been committed, and to bring those responsible to justice.
3. All detainees must have the right in law to be medically examined by a doctor of their choice as soon as an allegation of torture or ill-treatment is made by the detainee or his/her lawyer or family.
4. Investigating judges should carry out their own investigations whenever a person brought before them alleges torture or ill-treatment. If a detainee bears signs of injury, the investigating judge should inquire into the identity of those responsible for arrest and detention and the physical condition of the detainee.

Unfair trial

1. Amnesty International urges the government to amend the law to ensure that in all cases and without exception detainees have prompt and regular access to their lawyers and to ensure that throughout proceedings lawyers have access to their clients' files and to all material and other evidence.
2. Lawyers should enjoy the same rights as public prosecutors during proceedings; in particular, the client should never be interrogated by an investigating judge in the presence of a public prosecutor without the lawyer being present.
3. Article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states: "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was

made." Amnesty International recommends that only when a thorough investigation has failed to establish the probable veracity of the allegations will a confession or other evidence allegedly obtained through torture or ill-treatment be accepted by the court.

Prisoners of conscience

Amnesty International urges the immediate and unconditional release of all prisoners of conscience, that is, people detained for their beliefs or because of their ethnic origin, sex, colour or language - who have not used or advocated violence.

UPDATE

Amnesty International has recently learned that in the second half of February 1994 a further 33 ethnic Albanians were convicted by courts in Kosovo province of making preparations for armed uprising in order to achieve the province's secession from the Federal Republic of Yugoslavia. They received prison sentences of up to 10 years' imprisonment.

On 27 February 1994, the District Court of Pristina convicted 15 ethnic Albanians - Xhavit HAZIRI, Ismet MAHMUTI, Hajredin HYSENI, Faik AJETI, Raif QELA (ÇELA), Salih MUSTAFA, Salih SALIHU, Nehat SELIMI, Ramadan PLLANA, Islam MULAKU, Ajet BERISHA, Bajrush XHEMAJLI, Sanie ALIU (f), Ramize ABDULLAHU (f) and Shemsi VESELI - of conspiring to undermine by means of force Yugoslavia's territorial unity. Additional charges of smuggling or illegal possession of arms brought against Hajredin Hyseni, Faik Ajeti, Raif Çela, Salih Mustafa and Nehat Selimi, were withdrawn. Two other defendants were also convicted: Skënder HAJDARI was found guilty of calling for the violent change of the constitutional order and Hamit ZEQRIRI was found guilty of the possession of arms. Ismet Mahmuti, Hajredin Hyseni and Raif Çela were sentenced to 10 years' imprisonment each; Bajrush Xhemajli was sentenced to eight years' imprisonment, while Xhavit Haziri, Faik Ajeti, Salih Salihu, Salih Mustafa and Shemsi Veseli received five-year prison sentences each. Ramadan Pllana was sentenced to four years' imprisonment; Nehat Selimi and Ramize Abdullahu were sentenced to three years' imprisonment each; Islam Mulaku and Ajet Berisha each received two-year prison sentences and Sanie Aliu, Skënder Hajdari and Hamit Zeqiri received one-year prison sentences. The prosecutor withdrew charges against one defendant, Rexhep Avdiu. Nehat Selimi, Islam Mulaku, Ajet Berisha, Sanie Aliu, Skënder Hajdari and Hamit Zeqiri were released from detention pending appeal.

Between 14 and 23 February the District Court of Pe_ sentenced at least 13 ethnic Albanians (four of them in absence) on similar charges to up to six years' imprisonment, while the District Court of Prizren in three separate trials on 22, 27 and 28 February sentenced two others to 12 months', and a third to 18 months' imprisonment.

In the great majority of cases lawyers claimed that there was no evidence to support the charges of preparing for armed uprising apart from statements made by the accused, allegedly under duress, during investigation proceedings. Defendants regularly denied the charges; some admitted that they had discussed the need for organized self-defence in case armed conflict should spread to Kosovo province, but claimed that they had not taken any action to achieve this. In many cases defendants alleged that police had tortured or ill-treated them following arrest in order to obtain false, self-incriminating statements from them. In some cases medical evidence was reportedly produced in court which was consistent with allegations of torture and ill-treatment.

Amnesty International believes that allegations by defendants that police officers tortured or otherwise ill-treated them in order to obtain false, self-incriminating statements should be investigated. The organization is seeking information about the evidence in support of the charges against individual defendants in order to determine whether they are prisoners of conscience, imprisoned for the non-violent exercise of their human rights.